



Environmental Quality Board

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April 21, 2004

Honorable Raymond Krause
Chief Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

Re: Site Permit for Blue Lake Expansion
Route Permit for Transmission Line
EQB Docket No. 04-75-PPS-Xcel Blue Lake

Dear Judge Krause:

The Environmental Quality Board has under review an application from Xcel Energy for the installation of two natural gas-fired turbines at the Blue Lake facility in Scott County, Minnesota, and an application for the construction of a 115/230 kV transmission line associated with the plant expansion. A site permit from the EQB is required for the plant expansion and a route permit is required for the high voltage transmission line.

As required by the Power Plant Siting Act (Minn. Stat. § 116C.575, subd. 5) and the EQB rules (Minn. Rules part 4400.2750), the EQB is preparing an Environmental Assessment on both the power plant expansion and the transmission line construction. In this case, the Environmental Assessment will also include information required by the Public Utilities Commission for a decision on a request for a certificate of need for the plant expansion. A certificate of need for the transmission line is not required because the line as proposed by Xcel is exempt from certificate of need requirements. Minn. Stat. § 216B.243, subd. 8(4).

The EQB is also required to hold a public hearing on both of these applications. Minn. Stat. § 116C.575, subp. 6, and Minn. Rules part 4400.2850. For projects of the size and type proposed here, *i.e.*, a natural gas power plant and a 115/230 kV transmission line only 4000 feet long, the EQB is not required to hold a chapter 14 contested case hearing presided over by an administrative law judge and can elect to hold a more informal public hearing. However, because of the interest expressed by residents in the area about this project, particularly the transmission line route, the EQB would like to request that the Office of Administrative Hearings conduct this hearing for the EQB.

The Public Utilities Commission is required to hold its own contested case hearing on the certificate of need application for the power plant expansion. You are the Administrative Law Judge who will preside at the PUC hearing. That hearing is scheduled for May 17,

2004. At the prehearing conference on April 6, the participants talked about holding a joint hearing between PUC and EQB. Because EQB rules (Minn. Rules part 4400.1800, subp. 3 and 4410.7060, subp. 4) require the EQB Board to make the decision to hold a joint hearing, and the Board does not meet until May 20, 2004, there is not an opportunity for the Board to consider a joint hearing in this matter before the PUC hearing is scheduled to take place.

However, as discussed at the prehearing conference, while the hearings cannot actually be joined, it makes sense to hold the PUC and the EQB hearings on the same day, before the same Administrative Law Judge. This will expedite the proceedings and allow the applicant and the public to make their respective positions known in an efficient fashion. You can decide at the time how best to conduct the two proceedings to keep the administrative records separate but yet address all the issues that are involved.

EQB staff is on course to complete the Environmental Assessment and schedule the EQB hearing for the same date as the PUC hearing – May 17. I have enclosed a draft Notice of Public Hearing for the EQB hearing for your review. We will publish the Notice in the EQB Monitor on April 26 and mail the Notice to the appropriate people as required by EQB rules in advance of the hearing.

Under EQB rules (Minn. Rules part 4400.2850, subp. 2), the person who presides at the EQB hearing is not required to prepare a report and a recommendation unless requested to do so by the Chair. In this case, I do request that the Administrative Law Judge prepare a report and make a recommendation to the EQB Board on the route and any appropriate conditions that should be included in a Route Permit.

Thank you very much for your assistance in conducting this hearing. You can contact Alan Mitchell of the EQB staff at (651) 296-3714 if you have any questions.

Sincerely,



Robert A. Schroeder
Chair

cc: Service List